

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA

STATE OF ARIZONA,

vs.

EDGAR ALAN KUHN,

Plaintiff,

Defendant.

NO. CR 2001-006183

PLEA AGREEMENT

The State of Arizona and the defendant hereby agree to the following disposition of this case:

Plea: The defendant agrees to plead **guilty** to:

Counts One (1), Two (2) and Three (3) Facilitation of a Fraudulent Scheme or Artifice, each a class 6 felony offense in violation of Arizona Revised Statutes §§ 13-2310, 13-1004, 13-701, -702, -801, -802, -804, and §§ 13-301 through 13-306, all committed between September 1, 1994 and August 31, 1999.

These are non-dangerous, non-repetitive offenses under the criminal code.

Terms: On the following understandings, terms and conditions:

G 1. The crime carries a presumptive sentence of 1 years; a minimum sentence of .5 years (.33 years if trial court makes exceptional circumstances finding); and a maximum sentence of 1.5 years (2 years if trial court makes exceptional circumstances finding); Probation IS available. Restitution of economic loss to the victim and waiver of extradition for probation revocation procedures are required. The maximum fine that can be imposed is **\$150,000.00 plus a 60% surcharge**. If the defendant is sentenced to prison, the defendant shall also be sentenced to serve a term of community supervision equal to one-seventh of the prison term to be served consecutively to the actual period of imprisonment. If the defendant fails to abide by the conditions of community supervision, the defendant can be required to serve the remaining term of community supervision in prison. Special conditions regarding the sentence imposed by statute (if any) are:

Defendant agrees to waive his right to speedy sentencing until he has complied with the cooperation provisions contained in Exhibit "C", attached.

G 2. The parties stipulate to the following additional terms: (These stipulations are subject to court approval at the time of sentencing as set forth in paragraph 7.)

There are no agreements on the sentence to be imposed by the Court. Defendant agrees to pay a fine of \$25,000 to be designated as restitution consistent with Exhibit "B", attached. The offenses shall be undesignated offenses until the fine (which will be designated as restitution) is paid. If the fine is not paid in full, the offenses shall be designated as felony offenses. If the fine is paid in full, the court may designate the offenses as misdemeanors after considering other pertinent factors at the time the request to designate the offenses is made.

G 3. The following charges are dismissed, or if not yet filed, shall not be brought against the defendant:

Defendant will not be charged with any additional nonviolent crimes arising from the sale of investments by the Baptist Foundation of Arizona, Arizona Southern Baptist New Church Ventures, Inc., and Christian Financial Partners, Inc.

G 4. This agreement serves to amend the complaint or information, to charge the offense to which the defendant pleads, without the filing of any additional pleading. However, if the plea is rejected by the court or withdrawn by either party, or if the conviction is subsequently reversed, the original charges and any charges that are dismissed by reason of this plea agreement are automatically reinstated.

G 5. If the Defendant is charged with a felony, he hereby waives and gives up his rights to a preliminary hearing or other probable cause determination on the charges to which he pleads. The defendant agrees that this agreement shall not be binding on the State should the defendant be charged with or commit a crime between the time of this agreement and the time for sentencing in this cause; nor shall this agreement be binding on the State until the State confirms all representations made by the Defendant and his attorney, to-wit:

Defendant has no prior felony convictions.

If the Defendant fails to appear for sentencing, the court may disregard the stipulated sentence and impose any lawful sentence which is the same as or exceeds the stipulated sentence in the plea agreement. In the event the court rejects the plea, or either the State or the Defendant

withdraws the plea, the Defendant hereby waives and gives up his right to a preliminary hearing or other probable cause determination on the original charges.

G 6. Unless this plea is rejected by the court or withdrawn by either party, the defendant hereby waives and gives up any and all motions, defenses, objections, or requests which he has made or raised, or could assert hereafter, to the court's entry of judgment against his and imposition of a sentence upon him consistent with this agreement. By entering this agreement, the defendant further waives and gives up the right to appeal.

G 7. The parties hereto fully and completely understand and agree that it is the court's duty to impose sentence upon the defendant, and that any sentence either stipulated to or recommended herein in paragraph two is not binding on the court. If after accepting this plea the court concludes that any of the plea agreement's provisions regarding the sentence or the term and conditions of probation are inappropriate, it can reject the plea. If the court decides to reject the plea agreement provisions regarding sentencing, it must give both the state and the defendant an opportunity to withdraw from the plea agreement. In case this plea agreement is withdrawn, all original charges will automatically be reinstated. The defendant in such case waives and gives up his right to a probable cause determination on the original charges.

G 8. If the court decides to reject the plea agreement provisions regarding sentencing and neither the state nor the defendant elects to withdraw the plea agreement, then any sentence either stipulated to or recommended herein in paragraph 2 is not binding upon the court, and the court is bound only by the sentencing limits set forth in paragraph 1 and the applicable statutes.

G 9. This plea agreement in no way restricts or limits the ability of the State to proceed with forfeiture pursuant to A.R.S. §§ 13-4301 et seq., § 13-2314, or § 32-1993, if applicable, nor does the plea agreement in any way compromise or abrogate any civil actions, including actions pursuant to A.R.S. § 13-2301 et seq. or § 13-4301 et seq., or the provisions of A.R.S. §§ 13-2314(G) or A.R.S. § 13-4310.

G I have read and understand the provisions of pages one and two of this agreement **and Exhibits "A", "B", and "C"**. I have discussed the case and my constitutional rights with my lawyer. I understand that by pleading guilty I will be waiving and giving up my right to a determination of probable cause, to a trial by jury, to confront, cross-examine, compel the attendance of witnesses, to present evidence in my behalf, my right to remain silent, my privilege against self-incrimination, presumption of innocence and right to appeal. I agree to enter my plea as indicated above on the terms and conditions set forth herein. I fully understand that if, as part of this plea agreement, I am granted probation by the court, the terms and conditions thereof are subject to modification at any time during the period of probation. I understand that if I violate any of the written conditions of my probation, my probation may be terminated and I can be sentenced to any term or terms stated above in paragraph one, without limitation.

I have personally and voluntarily placed my initials in each of the above boxes and signed the signature line below to indicate I read and approved all of the previous paragraphs in this agreement, both individually and as a total binding agreement.

Date _____

Defendant _____

EDGAR ALAN KUHN

I have discussed this case with my client in detail and advised him of his constitutional rights and all possible defenses. I believe that the plea and disposition set forth herein are appropriate under the facts of this case. I concur in the entry of the plea as indicated above and on the terms and conditions set forth herein.

Date _____

Defense Counsel _____

THOMAS A. THINNES/ JOHN R. AUGUSTINE, JR.

I have reviewed this matter and concur that the plea and disposition set forth herein are appropriate and are in the interests of justice.

Date _____

Prosecutor _____

SHERRY K. STEPHENS/ CAROLYN K. PASSAMONTE

EXHIBIT “B”

STATE OF ARIZONA V. EDGAR ALAN KUHN MARICOPA COUNTY SUPERIOR COURT NO. CR 2001-006183

FINE/ RESTITUTION AGREEMENT

Edgar Alan Kuhn agrees to pay a fine to be designated as restitution to the following individuals and entities as part of his plea agreement in this matter.

The total amount to be repaid to the victims in this matter is **\$25,000.** Restitution shall be paid to the Clerk of the Court for Maricopa County Superior Court. The clerk shall transfer all funds received to the United States Bankruptcy Court to be disbursed to investor victims in all cases jointly administered under case number 99-13275-ECF-GBN on a pro rata basis. No funds received by the bankruptcy court will be used to pay costs or fees associated with the bankruptcy. At the conclusion of the bankruptcy proceedings, all restitution received will be disbursed by the Clerk of the Maricopa County Superior Court to the remaining victims on a pro rata basis. The Attorney General shall provide to the Clerk of the Maricopa County Superior Court a list of the investor victims, their current addresses and the balances owed to them at the conclusion of the bankruptcy proceedings.

I understand and agree to these restitution terms.

Edgar Alan Kuhn

Date

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EXHIBIT “C”
COOPERATION PROVISIONS

Edgar Alan Kuhn agrees to testify upon request of the Office of the Attorney General, fully, completely and in a truthful manner at any deposition, interview, administrative hearing, trial or retrial, and any other proceeding directly or indirectly relating to any administrative proceeding, civil proceeding, bankruptcy proceeding and/or criminal proceeding which has been filed or may be filed against Baptist Foundation of Arizona, Arizona Southern Baptist New Church Ventures, Inc., Christian Financial Partners, Inc., A.L.O., Inc., E.V.I.G., Inc., Select Trading Group, Inc., United States Brazilian Corporation, W.H.H.C. Partnership, H.H.C. Partnership, William Pierre Crotts, Thomas D. Grabinski, Donald D. Deardoff, Lawrence Dwain Hoover, Harold Friend, Glen E. Crotts, Jalma W. Hunsinger, Richard Rolfes, Rolfes Financial Services, Carroll Dean Burdick, Arthur Andersen LLP, Ann M. McGrath, Jay Steven Ozer, Alan Proctor Hague, I. Douglas Dunipace, W. James Cullumber and any other related individuals, entities or subsidiaries. Edgar Alan Kuhn agrees to have no contact with any witnesses in any proceeding involving any of the above-described individuals, entities, subsidiaries or affiliates until after he is sentenced in this matter, *State of Arizona v. Edgar Alan Kuhn, Maricopa County Superior Court No. CR 2001-006183*. Edgar Alan Kuhn agrees to keep the Attorney General’s Office apprised of his whereabouts at all times until such time as he is sentenced pursuant to this agreement.

If Edgar Alan Kuhn at any time refuses to cooperate, refuses to testify, testifies untruthfully as to any material fact or otherwise breaches any aspect of the plea agreement, then, after written application by the State, the Court shall declare the entire plea agreement null and void and the original charges shall be reinstated and the parties returned to the positions they were in immediately prior to this agreement.

Edgar Alan Kuhn acknowledges that the State of Arizona has entered into this plea agreement in order to obtain full, complete and truthful testimony and evidence relating to possible investigations and prosecutions of Baptist Foundation of Arizona, Arizona Southern Baptist New Church Ventures, Inc., Christian Financial Partners, Inc., A.L.O., Inc., E.V.I.G., Inc., Select Trading Group, Inc., United States Brazilian Corporation, W.H.H.C. Partnership, H.H.C. Partnership, William Pierre Crotts, Thomas D. Grabinski, Donald D. Deardoff, Lawrence Dwain Hoover, Harold Friend, Glen E. Crotts, Jalma W. Hunsinger, Richard Rolfes, Rolfes Financial Services, Carroll Dean Burdick, Arthur Andersen LLP, Ann M. McGrath, Jay Steven Ozer, Alan Proctor Hague, I. Douglas Dunipace, W. James Cullumber and any other related individuals, entities or subsidiaries. Edgar Alan Kuhn is placed on notice that he is subject to prosecution for any perjury, false swearing, unsworn falsification or contempt committed in answering or failing to answer questions, producing testimony or evidence in accordance with this plea agreement.

Edgar Alan Kuhn’s obligations and the sanctions for breach of this plea agreement shall remain in full force and effect until notice in writing is given to the court by the Office of the Attorney General that Edgar Alan Kuhn’s testimony and cooperation are no longer required.

The parties stipulate to a waiver of the speedy sentencing provisions of Rule 26.3, Arizona Rules of Criminal Procedure, and agree that the date of sentencing for Edgar Alan Kuhn shall be continued until completion of all cooperation provisions set forth in the plea agreement.

At the time of sentencing, the State shall inform the Court whether Edgar Alan Kuhn has fully, completely and truthfully cooperated and testified as described in this agreement. Edgar Alan Kuhn and the

State of Arizona retain the right to request a presentence hearing pursuant to Rule 26.7, Arizona Rules of Criminal Procedure in order to present whatever evidence each party in its discretion consider appropriate. Edgar Alan Kuhn and the State of Arizona retain the right to make what each considers appropriate recommendations to the Adult Probation Office and the Court regarding sentencing.

Edgar Alan Kuhn states that he has read and understands each of the provisions of the plea agreement regarding his obligation to testify and cooperate and has discussed this matter with his attorney.

Date:_____

Edgar Alan Kuhn

Date:_____

Thomas A. Thinnes/ John R. Augustine, Jr.
Attorney for Edgar Alan Kuhn